# IN THE U.S. DISTRICT COURT FOR THE DISTRICT OF DELAWARE

APPLE INC,

Plaintiff,

v.

MASIMO CORPORATION and SOUND UNITED, LLC,

Defendants.

MASIMO CORPORATION and CERCACOR LABORATORIES, INC.,

Counter-Claimants,

v.

APPLE INC,

Counter-Defendant

Civil Action No. 22-1378-MN-JLH

## DEFENDANTS' REPLY BRIEF IN SUPPORT OF THEIR MOTION TO CONSOLIDATE

Of Counsel:

Joseph R. Re
Stephen C. Jensen
Stephen W. Larson
Perry D. Oldham
Benjamin A. Katzenellenbogen
Jared C. Bunker
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street, 14th Floor
Irvine, CA 92614
(949) 760-0404 Telephone
(949) 760-9502 Facsimile
joe.re@knobbe.com

Brian Horne

John C. Phillips, Jr. (No. 110) Megan C. Haney (No. 5016) PHILLIPS, McLAUGHLIN & HALL, P.A. 1200 North Broom Street Wilmington, DE 19806 (302) 655-4200 Telephone (302) 655-4210 Fax jcp@pmhdelaw.com mch@pmhdelaw.com

Counsel for Defendants Masimo Corporation and Sound United, LLC

Dated: March 17, 2023

KNOBBE, MARTENS, OLSON & BEAR, LLP 1925 Century Park East, Suite 600 Los Angeles, CA 90067 (310) 551-3450 Telephone (310) 551-3458 Facsimile brian.horne@knobbe.com

Adam Powell KNOBBE, MARTENS, OLSON & BEAR, LLP 3579 Valley Centre Drive, Suite 300 San Diego, CA 92130 (858) 707-4000 Telephone (858) 707-4001 Facsimile adam.powell@knobbe.com For the reasons detailed in Defendants' Opening and Reply briefs filed in the parties' companion case, Civil Action No. 22-1377-MN-JLH, which are incorporated by reference as if fully set forth herein, Defendants respectfully request the Court consolidate the companion case with this case.

#### Respectfully submitted,

March 17, 2023

PHILLIPS McLaughlin & Hall, P.A.

#### Of Counsel:

Joseph R. Re
Stephen C. Jensen
Stephen W. Larson
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street, 14th Floor
Irvine, CA 92614
(949) 760-0404 Telephone
(949) 760-9502 Facsimile
joe.re@knobbe.com

Brian Horne KNOBBE, MARTENS, OLSON & BEAR, LLP 1925 Century Park East, Suite 600 Los Angeles, CA 90067 (310) 551-3450 Telephone (310) 551-3458 Facsimile brian.horne@knobbe.com

Adam Powell KNOBBE, MARTENS, OLSON & BEAR, LLP 3579 Valley Centre Drive, Suite 300 San Diego, CA 92130 (858) 707-4000 Telephone (858) 707-4001 Facsimile adam.powell@knobbe.com

#### By: /s/ John C. Phillips, Jr.

John C. Phillips, Jr. (No. 110) Megan C. Haney (No. 5016) 1200 North Broom Street Wilmington, DE 19806 (302) 655-4200 Telephone (302) 655-4210 Fax jcp@pmhdelaw.com mch@pmhdelaw.com

Counsel for Defendants
Masimo Corporation and Sound United, LLC

### **CERTIFICATE OF SERVICE**

I hereby certify that on March 17, 2023, a true and correct copy of the foregoing document was served on the following counsel of record at the addresses and in the manner indicated:

### **VIA ELECTRONIC MAIL:**

David E. Moore	John M. Desmarais
Bindu A. Palapura	Kerri-Ann Limbeek
Hercules Plaza, 6th Floor	Cosmin Maier
1313 N. Market Street	Jordan N. Malz
Wilmington, DE 19801	Benjamin N. Luehrs
dmoore@potteranderson.com	Joze Welsh
bpalapura@potteranderson.com	Jamie L. Kringstein
	DESMARAIS LLP
	230 Park Avenue
	New York, NY 10169
	jdesmarais@desmaraisllp.com
	klimbeek@desmaraisllp.com
	cmaier@desmaraisllp.com
	jmalz@desmaraisllp.com
	bluehrs@desmaraisllp.com
	jwelsh@desmaraisllp.com
	jkringstein@desmaraisllp.com
Peter C. Magic	Jennifer Milici
DESMARAIS LLP	Dominic Vote
101 California Street	Leon B. Greenfield
San Francisco, CA 94111	Wilmer Cutler Pickering Hale and Dorr LLP
pmagic@desmaraisllp.com	1875 Pennsylvania Avenue, NW
	Washington DC 20006
	jennifer.milici@wilmerhale.com
	dominic.vote@wilmerhale.com
	leon.greenfield@wilmerhale.com
Mark A. Ford	
Wilmer Cutler Pickering Hale and Dorr LLP	
60 State Street	
Boston, MA 02109	
mark.ford@wilmerhale.com	

March 17, 2023

/s/ John C. Phillips, Jr.
John C. Phillips, Jr. (#110)